S.B. Civil Writ Petition NO.2366/2005
Ram Prasad & Anr.
vs
Manak Chand & Ors.

DATE OF ORDER : - 25.4.2005.

HON'BLE MR. PRAKASH TATIA,J.

Mr.AK Acharya, for the petitioner.

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Heard learned counsel for the petitioner.

It appears from the impugned order dated 14.3.2005 that the trial court granted permission to the plaintiff to produce 'Patta' on record by order dated 11.10.2004. Against this order, according to learned counsel for the petitioner a writ petition was preferred by the petitioner, but that was dismissed with liberty to the petitioner to challenge the order dated 11.10.2004 by taking a ground in appeal.

According to learned counsel for the petitioner, now the trial court has permitted plaintiff to prove 'Patta' by producing oral evidence and according to learned counsel for the petitioner that permission should not have been granted by the trial court after the closure of the evidence of the defendants. According to learned counsel for the petitioner, this virtually amounts to permitting the plaintiff to produce evidence and that cannot be permitted in view of the legal position and as held by the Punjab and Haryana High Court in the case delivered in Gurnam Singh Vs. Jit Singh & Ors reported in 1999(2) CCC 583 (P&H).

I considered the submissions of learned counsel for the petitioner. It is clear from the facts of the case that the trial court allowed the production of 'Patta' vide order dated 11.10.2004 and this Court in the writ petition against the said order did not interfere in the said order and observed that the petitioner can challenge the said order in appeal. It is also clear from the facts of this case that till the order dated 8.10.2004 for taking on record 'Patta' in question remains by the order of the court, how the plaintiff can be denied to prove that document, which has been found relevant by the trial court and trial court permitted the plaintiff to produce the document. Therefore, I do not find any merit in the present case and the order impugned dated 14.3.2005 cannot be said to be an order permitting the plaintiff to produce evidence in rebuttal. The evidence in rebuttal is something different and permitting a party to produce evidence for which burden lies upon him on his request during trial of the suit is something different.

In view of the above, the writ petition of the petitioner is dismissed.

(Prakash Tatia), J.

c.p.goyal/-